

Sarzyn

DECISION



17141
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

[Untimely Protest of Proposal Rejection]

FILE: B-200900

DATE: February 26, 1981

MATTER OF: Educational Research Associates

DIGEST:

1. Protest of rejection of proposal filed more than 10 days after latest date basis of protest should have been known is untimely under 4 C.F.R. § 20.2(a)(2).
2. GAO time/date stamp is prima facie evidence of time of receipt of bid protest at GAO, and absent affirmative evidence to show earlier filing, time/date stamp controls.

Educational Research Associates (ERA) protests rejection of its proposal under request for proposals (RFP) No. 7-80-1016, issued by the Department of Health and Human Services (HHS).

ERA was informed by the agency that it was not the successful offeror and received a copy of the winning proposal on September 19, 1980. A debriefing conference was held on October 1, 1980. The protest was filed on October 17 as shown by the GAO time/date stamp. For the reasons that follow, the protest is dismissed as untimely.

Our Bid Protest Procedures, 4 C.F.R. § 20.2(a)(2) (1980), provide in pertinent part:

"* * * bid protests shall be filed not later than 10 days after the basis for protest is known or should have been known, whichever is earlier."

The agency contends the protest was untimely filed since ERA knew or should have known the basis for its

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protest on September 19, after receiving the winning proposal. ERA argues the basis for its protest was not evident until the debriefing conference on October 1.

We have held that a protester reasonably could withhold filing a protest to our Office until it had a debriefing conference revealing specific reasons why an award was made to another firm. Lambda Corporation, 54 Comp. Gen. 468 (1974), 74-2 CPD 312; Compare Power Conversion, Inc., B-186719, September 20, 1976, 76-2 CPD 256. Here, HHS contends no new information significant to the protest was provided to ERA at the debriefing conference, and the 10 day filing period should be calculated from September 19, the date ERA received the winning proposal. ERA disagrees. However, even if we assume that the basis for the protest was not apparent until the debriefing conference which was held on October 1, the protest had to have been filed by October 16 to have been considered timely.

The GAO time/date stamp is prima facie evidence of the time of receipt of a protest at this Office. Linguistic Systems, Incorporated, 58 Comp. Gen. 403 (1979), 79-1 CPD 250. Since ERA has not offered any evidence to show that its protest was received by GAO at an earlier date the protest must be considered untimely, since, using either date for calculating the filing period, ERA did not protest to our Office within 10 days of being notified of the basis of its protest.

The protest is dismissed.

Milton J. Socolar
Milton J. Socolar
General Counsel